

# Pain Management

The 1994 General Assembly established a joint subcommittee of the House and Senate under the leadership of Senator Jane H. Wood (34th District) to study the medical management of acute and cancer pain. Specifically, the Joint Subcommittee studying the Commonwealth's Current Laws and Policies Related to Acute and Cancer Pain Management was empowered to investigate: (1) current acute and cancer pain management efforts in the Commonwealth; (2) the effectiveness of acute and cancer pain management clinics; and (3) Virginia's current law and public policy related to acute and cancer pain management clinics; and (3) Virginia's current law and public policy related to acute and cancer pain management. Further, Senate Joint Resolution No. 368 (1995) requested that the Commonwealth's medical schools, health care professionals, professional associations, health related agencies, and health regulatory boards assist in educating the public and practitioners on acute and cancer pain management.

The Joint Subcommittee met during the summer and fall of 1994 and heard testimony from many interested parties, including physicians, nurses, psychologists and patients. During the course of the study and in testimony during the 1995 session of the General Assembly, it became apparent that many members of the medical community were unaware of provisions of Virginia law which relate to the prescribing of pain-relieving agents in excess of recommended dosages.

The Drug Control Act, in Virginia Code §54.1-3408.1, has for many years authorized physicians to prescribe dosages of pain-relieving medications in excess of the recommended dosages in cases of intractable pain if the necessity of such excess dosage is certified in the patient's record. The Joint Subcommittee recommended that the existing authority of Virginia Code §54.1-3408.1 be restated in a new section within the General Standards of Practice article of the statutes pertaining to the Board of Medicine. As a result, the General Assembly enacted a new statutory provision, Virginia Code §54.1-2971.01, and instructed the Board of Medicine to advise licensees of the new statute, as well as the existing provision of the Drug

Control Act. Accordingly, both statutes are set forth below.

## §54.1-2971.01. Prescription in excess of recommended dosage in certain cases.

A. Consistent with §54.1-2408.1 of this code, a physician may prescribe a dosage of a pain-relieving agent in excess of the recommended dosage upon certifying the medical necessity for the excess dosage in the patient's medical record. Any practitioner who prescribes, dispenses or administers an excess dosage in accordance with this section and §54.1-3408.1 shall not be in violation of the provisions of this title because of such excess dosage, if such excess dosage is prescribed, dispensed or administered in good faith for recognized medicinal or therapeutic purposes.

B. The Board of Medicine shall advise physicians of the provisions of this section and §54.1-3408.1

## §54.1-3408.1. Prescription in excess of recommended dosage in certain cases.

In the case of a patient in intractable pain, a physician may prescribe a dosage in excess of the recommended dosage of a pain relieving agent if he certifies the medical necessity for such excess dosage in the patient's medical record. Any person who prescribes, dispenses or administers an excess dosage in accordance with this section shall not be in violation of the provisions of this title because of such excess dosage, if such excess dosage is prescribed, dispensed or administered in good faith for accepted medicinal or therapeutic purposes.

Nothing in this section shall be construed to grant any person immunity from investigation or disciplinary action based on the prescription, dispensing or administration of an excess dosage in violation of this title.

The bottom line is—

**DOCUMENT,  
DOCUMENT,  
DOCUMENT!!!**

Excerpt Board Briefs #49  
Spring 1995